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Previous References 1930-31 (Legis) **File No.** 16-30

Serial Nos. notes

Later References

PRESERVED

(10)

General and Revenue Secretariat.

Serial Nos.

Part B for August 1930

SUBJECT

Bill to amend the Mysore Infant Marriage Prevention Regulation

notes
27 Sept
15/8/30

Legis 16-20

Extract from D.No.5407 of 28 re. cases of Infant Marriage.

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x x x x

1) As regards those who abetted this marriage what constitutes their offence is, according to Sec.5 of the Regulation, abetment "within the meaning of the I.P.C." Under S.108 A of the I.P.C. a person abets an offence within the meaning of this Code who in Mysore abets the commission of any act without and beyond Mysore which would constitute an offence if committed in Mysore But the word offence, as used in this section, does not include an offence punishable under a special law like the Infant Marriage Prevention Regulation (Vide Sec.40 I.P.C.) It is therefore doubtful whether even the abetters in the case under advertence are liable to prosecution.

Id. N.S.
25/5

2) In the latter part of Sec.40 I.P.C. "Offence" under local is ~~mere~~ made punishable with respect to certain sections, and Sec.108 A. is omitted. When the I.P.C. was amended under Regulation I of 1904 by adding Sec. 108A I.P.C., this section was not added in the list of sections under Sec.40 I.P.C. I think it is desirable to amend Sec.40 I.P.C. by adding Sec.108A. also, ~~and~~ otherwise, such cases as the one under reference would escape prosecution by virtue of defective legislation. The Branch will please work up this point.

Id/ P.M.
27/5

3) After issue resubmit with note about the inclusion of sec.108A in para 2 of Sec.40.

Id/ N.S.
4/6.

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4) Sub Para 2 of S. 40 of the I. P. C defines offences occurring in certain sections of the I. P. C as denoting things punishable under the I. P. C or under any other specified law. In this definition S. 109 is included but not 108A. S 109 makes abetment punishable & S. 108A makes abetment of an offence committed outside any State also punishable. In order that an abetment of an offence under Regn. X of 1894 committed outside any State may be made punishable it is now proposed to include S. 108A in S. 40 I. P. C.

5) S. 108A does not create a substantive offence but only widens scope of S. 109 It is a point for consideration if it is not desirable to amend Regn. X of 1894 likewise so as to cover cases

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of Mysore Subjects going out of Mysore & committing the offence & then returning to Mysore & residents in Mysore who subsequently have committed this offence committed outside Mysore. For the British Indian Code this has not been included in S.40.

6) Such cases as are now contemplated may occasionally arise under all the Special laws

Govt. for orders.

Sec 6/7

7) It seems to be the better course and if it is approved a draft Bill will be put up accordingly.

Dy 9/7

Secy)

8) ~~No~~ Yes. Please put up the bill again.

A — Yes. Please put up the bill

Dy 28/3/30

Dy 28/3

9) Submitted is a draft Bill for consideration of the measure if the Govt. requires any change in view of the amendment proposed.

Sec 12/4 Dy 15/4

Draft bill with a note of Advt.

Dy 7/4

11) Submitted with a fair draft Statement of objects & reasons for approval of the Govt. to put up for consideration

Dy 22/4

Sec 21/4 Dy 24/4 Secy)

Note—Contn. Sheet

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(1) At the time the suggestion was made for the amendment of the Infant Marriage Regulation, there was no law in British India prohibiting such marriages and a necessity was therefore felt to amend the law in Mysore so that subjects of Mysore may not contravene its provisions by going into British India and performing child marriage there. Now that the Child Marriage Restraint Act has become law in British India and it prohibits child marriages in British India irrespective of whether the persons concerned are subjects of British India or not, Mysoreans performing such marriages in British India become liable under the Act. Moreover the terms of the British Indian enactment are more rigorous than those of our Regulation and as such there will be no inducement for subjects of the State to try to get over the provisions of the Regulation here by having the prohibited marriage performed in British India.

(2) Under these circumstances, there appears to be no necessity of amending the law here as suggested above. The further consideration of this matter will, if approved, be dropped.

OFFICE OF THE SECOND MEMBER OF COUNCIL 31 JULY 1930 No. 961

2nd Member

10.VII. 96) 30/7/30

Yes we may take up separately. A. perused the question of amending the Act on the lines of the Sarda Act

NOTE—Contn. sheet.

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Please take extract of A. and work it separately. 9189 11/8 Dewan (Have a free copy)

11/8 Dewan 11/8 D. 13/8 13/8 31/7 8/8

Bill to amend Regulation X of 1894.

Whereas it is expedient to amend the Mysore Infant Marriages Prevention Regulation 1894; It is hereby enacted as follows:-

After Section 5 of the said Regulation the following section shall be added:-

"5A A person abets a marriage within the meaning of section 3 and section 5 who in Mysore abets the performance of the marriage without and beyond Mysore which if performed in Mysore would be in contravention of the provisions of the said sections.

i

Alternative draft

Bill to amend Regulation X of 1894.

Whereas it is expedient to amend the Mysore Infant Marriage Prevention Regulation 1894; It is hereby enacted as follows:-

After Section 5 of the said Regulation the following section shall be added:-

"5A. The abetment in Mysore of a marriag without and beyond Mysore, in contravention of the provisions of section 3 or section 5, between persons either of whom is a subject of H.H. the Maharaja shall be deemed to be an abetment within the meaning of the said -- sections".

9r

Statement of Objects & Reasons.

The offences punishable under the Infant Marriage Prevention Regulation are:

(a) the substantive offences of a man who has completed 18 years of age marrying a girl who has not completed 8 years of age and of a man who has completed 50 years of age marrying a girl who has not completed 14 years of age, and

(b) the abetment of these offences.

The substantive offences can be tried in the State under Sec.188 of the Cr.P.C. when the offender being a subject of Mysore contracts such a marriage outside the State, if he is found in Mysore. But the offences of abetment cannot be similarly dealt with as the provisions of Sec.108 A of the I.P.C. do not apply to offences under special laws. The amendment proposed in the Bill is intended to remedy this defect in the Regulation.

Sec. 92 274

4

REGULATION NO. X OF 1894.

(Passed on the 5th day of October 1894.)

A Regulation to prevent Infant Marriages in the Territories of Mysore.

Preamble. Whereas it is expedient to prevent infant marriages in the territories of Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title. 1. This Regulation may be called "The Mysore Infant Marriages Prevention Regulation."

Extent and commencement. (2) It shall extend to the whole of the territories of Mysore, but it shall apply only to marriages among the Hindus. It shall come into operation at the expiration of six months from the date of its publication in the official Gazette.

Definition. 2. For the purposes of this Regulation, an "infant girl" means a girl who has not completed eight years of age.

Punishment for causing or abetting infant marriages. 3. Any person who causes the marriage of an infant girl, or who knowingly aids and abets within the meaning of the Indian Penal Code such a marriage, and any man who having completed eighteen years of age marries an infant girl, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Punishment of a man above fifty years marrying a girl under 14. 4. Any man who having completed fifty years of age marries a girl who has not completed fourteen years of age shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or both.

Punishment for abetment of offence provided against in Section 4. 5. Any person who causes the marriage of a girl who has not completed fourteen years of age, with a man who has completed fifty years of age, and any person who knowingly aids and abets, within the meaning of the Indian Penal Code, such a marriage, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Offence under the Regulation by whom triable. 6. No offence punishable under this Regulation shall be tried by any court inferior to that of a Magistrate of the District.

Validity of marriages not to be affected by reason of the penalities provided. 7. No marriage which has actually taken place, shall be deemed to be invalid on the ground of the penalties provided by this Regulation.

No prosecution to be instituted without the previous sanction of Government.

8. No prosecution under this Regulation shall be instituted without the previous written sanction of the Government accorded after such enquiry as the Government may deem fit to make.